

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 11

WACKENHUT SERVICES, INC.
Employer

and

Case No. 11-RC-6603

UNITED PROFESSIONAL PROFORCE
OF SAVANNAH RIVER, LOCAL 125¹

Petitioner

and

INTERNATIONAL UNION SECURITY, POLICE AND
FIRE PROFESSIONALS OF AMERICA (SPFPA), LOCAL 330

Intervenor

REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION

The Employer, Wackenhut Services, Inc. (hereinafter the Employer), is a Florida corporation with a facility located in Aiken, South Carolina, where it provides security services to the Savannah River site of the United States Department of Energy. The Petitioner, United Professional Proforce of Savannah River, Local 125 (hereinafter the Petitioner), filed a petition with the National Labor Relations Board (hereinafter the Board) under Section 9(c) of the National Labor Relations Act (hereinafter the Act) seeking to represent a unit comprised of all full-time and regular part-time unarmed security officers, armed security police officers, central alarm station specialists, LEDC specialists, and canine handlers employed by the Employer at the Savannah River Site of the United State Department of Energy in Aiken, South Carolina, excluding all other employees, office clerical employees, operations security specialists,

instructors, helicopter pilots, security police officer trainees, sergeants and other supervisors and professional employees as defined in the Act. At the hearing, the parties stipulated that the unit is appropriate.

International Union Security, Police and Fire Professionals of America (SPFPA), Local 330 (hereinafter the Intervenor), which presently represents the Employer's unit employees, intervened in the proceeding. At the hearing, the parties stipulated that the Employer and the Intervenor have had a collective bargaining relationship since July 1990, when the Intervenor was initially certified as the representative of the Employer's employees in the petitioned-for unit. Since that time, the Employer and the Intervenor have executed a series of collective bargaining agreements, culminating in the most recent one, which is effective from October 29, 2001 to October 29, 2006. At the hearing, the parties further stipulated that there is no contract bar to an election in the present case.

As evidenced at the hearing, the primary issue is whether the Petitioner is a labor organization within the meaning of Section 2(5) of the Act. At the hearing, the Employer and Petitioner stipulated that the Petitioner is a labor organization, whereas the Intervenor argued to the contrary. In addition, at the hearing, the Intervenor tried to show that the Petitioner "is affiliated directly or indirectly with an organization which admits to membership, employees other than guards" within the meaning of Section 9(b)(3) of the Act. A hearing officer of the Board held a hearing, and the Petitioner and the Intervenor filed briefs with the undersigned.

In its post-hearing brief, the Intervenor now concedes that Petitioner is a labor organization and that Petitioner is not affiliated directly or indirectly with an organization that admit non-guards to membership. In addition, I find that the record evidence fully supports the conclusion that Petitioner is an organization in which employees participate and which exists for

¹ The Petitioner's full name appears as amended at the hearing.

the purpose, in whole or in part, of dealing with the Employer concerning grievances, labor disputes and terms and conditions of work. The record evidence also demonstrates that Petitioner is seeking a unit exclusively of guards, accepts into membership only guards, and is not affiliated with any other labor organization that admits to membership employees other than guards. I conclude, therefore, that Petitioner is a labor organization as defined in Section 2(5) of the Act, and is seeking to represent a unit in conformance with Section 9(b)(3) of the Act. Accordingly, I shall direct an election in the unit described below.

CONCLUSIONS AND FINDINGS

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Petitioner involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time unarmed security officers, armed security police officers, central alarm station specialists, LEDC specialists, and canine handlers employed by the Employer at the Savannah River Site of the United State Department of Energy in Aiken, South Carolina, excluding all other employees, office clerical employees, operations security specialists, instructors, helicopter pilots, security police officer trainees, sergeants and other supervisors and professional employees as defined in the Act.

DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by United Professional Proforce of Savannah River, Local 125, or by International Union Security, Police and Fire Professionals of America (SPFPA), Local 330, or by neither. The date time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to the Decision.

A. Voting Eligibility

Eligibility to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employee who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

B. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear Inc., 156 NLRB 1236 (1966); NLRB v. Wyman-Gordon Company, 395 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting processes, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, 4035 University Parkway, Suite 200, P.O. Box 11467, Winston-Salem, North Carolina, 27116-1467, on or before **May 9, 2005**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (336) 631-5210. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

C. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on non-posting of the election notice.

RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570 and received by the Board in Washington by **May 16, 2005**.

Dated at Winston-Salem, North Carolina, this 2nd day of May, 2005.

/s/ Willie L. Clark, Jr.
Willie L. Clark, Jr.
Regional Director
National Labor Relations Board
Region 11
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P. O. Box 11467
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